

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of EVELYN MENDOZA, IZAEAH  
MENDOZA, and ALISIANA MENDOZA,  
Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

PATRICIO ABEL MENDOZA,

Respondent-Appellant,

and

LAURA JANE MORTON,

Respondent.

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UNPUBLISHED

March 4, 2010

No. 292526

Ottawa Circuit Court

Family Division

LC No. 07-058505-NA

Before: Servitto, P.J., and Bandstra and Fort Hood, JJ.

PER CURIAM.

Respondent, Patricio Mendoza, appeals as of right the order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i) and (g).<sup>1</sup> The children's mother, respondent Laura Morton, voluntarily relinquished her parental rights and is not a party to this appeal. We affirm.

The trial court did not clearly err by finding that clear and convincing evidence supported at least one statutory ground for termination of respondent's parental rights. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The primary conditions of adjudication were substance abuse and domestic violence between the parents. Respondent was

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<sup>1</sup> Subsection 19b(3)(c)(i) was inapplicable as to Alisiana, who was born during the pendency of the case.

offered substance abuse counseling, random drug screens, anger management, Parenting Plus, parenting time, and AA meetings. At the termination hearing, it was clear that respondent had only been “going through the motions” in terms of compliance with his service plan. Although referred for a substance abuse assessment and treatment in August 2007, respondent did not begin to comply until May 2008. He was released from drug treatment therapy in November 2008, because he had tested positive for drugs on at least two occasions and the therapist did not believe he could help respondent, who failed to acknowledge a problem. It was only when respondent was confronted with the termination of his parental rights in January 2009 that he made any meaningful attempt to address this issue. However, respondent tested positive for cocaine in April 2009. During his testimony on the first day of trial, respondent denied that he used cocaine on this occasion, claiming that the test was a false positive, only to recant this testimony on the second day of trial, admitting to “doing a line” of cocaine that day. The trial court found respondent’s credibility “virtually non-existent” and refused to accept any positive testimony regarding respondent’s drug treatment, which was based on self-reported information. This Court defers to the trial court’s special opportunity to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989).

In addition to respondent’s lackadaisical approach to his treatment plan and continued drug use, he continued to suffer from anger management problems. Several witnesses testified that respondent often expressed anger at Morton, his caseworker, the court, and his mother, and, he continued to have angry outbursts in front of his children. Respondent blamed everyone for the situation he was in. And, while anger management and drug use were the two main causes for the children coming into care, respondent faced additional difficulties preventing him from appropriately parenting the children, such as a lack of housing. Respondent admitted that he was homeless and living with friends, in his car, or at a hotel. Respondent was only recently employed, having been hired in February 2009, and yet, despite this employment, there was no indication that respondent planned to address his lack of stable housing. In addition, it was not clear that respondent possessed the requisite parenting skills to properly attend to the three young children. Karen Miller from Parenting Plus worked with respondent for 19 months, during which time respondent showed minimal progress.

Respondent’s continuing substance abuse and anger issues, along with his unstable living situation, made it unlikely that he would be able to care for the children within a reasonable time. Even if respondent’s recent desire to change was real, the children had already been under the court’s jurisdiction for nearly two years. Therefore, we find no clear error in the trial court’s conclusion that, as to the older two children, the conditions leading to adjudication continued to exist, and that, as to all three children, respondent, without regard to intent, failed to provide proper care or custody for the children and there was no reasonable expectation that he would be able to provide proper care and custody within a reasonable time considering the children’s ages.

Further, the trial court did not clearly err by finding that it was in the children’s best interests to terminate respondent’s parental rights. MCL 712A.19b(5); MCR 3.977(J); *In re Trejo*, 462 Mich at 356-357. There was no dispute that the children were happy to visit with respondent and appeared genuinely glad to see him. However, respondent did not possess the necessary parenting skills and was simply not in a position to take care of the children. He had only recently been employed, was homeless, and continued to have angry outbursts with workers

and family members. He tested positive for cocaine just weeks before the termination hearing. The children had already been out of his care for 20 months, during which time respondent never progressed to unsupervised visitation, primarily due to his lack of participation. Asking the children to wait even longer was not fair to them, as they were entitled to permanence and stability.

We affirm.

/s/ Deborah A. Servitto

/s/ Richard A. Bandstra

/s/ Karen M. Fort Hood